

SECTION: REMARKS

This reply is submitted pursuant to 35 U.S.C. §132 and 37 C.F.R. §1.111. The Office Action was carefully considered by the undersigned attorney and applicants. Reconsideration of the application is respectfully requested.

1. Summary of the Office Action.

The drawings were objected to.

The disclosure was objected to.

Claims 1-11 were pending.

Claims 3-5 stand rejected under 35 U.S.C §112, second paragraph.

Claims 1, 3, 6 and 10 stand rejected under 35 U.S.C §102(b) over Appelhoff (US 1,467,772)

Claims 1, 3, 8 and 9 stand rejected under 35 U.S.C §102(b) over Andrews (US 3,402,407)

Claims 1, 4 and 5 stand rejected under 35 U.S.C §102(b) over Friedman et al (US 4,599,170)

Claims 1, 2, 7 and 8 stand rejected under 35 U.S.C §102(b) over Hermann, Jr. et al (US 5,043,082)

Claim 11 stands rejected under 35 U.S.C §103(a) over Appelhoff in view of Hartmann et al (DE 4434544 C1).

2. Discussion.

Drawing Objections

Enclosed are red-lined proposed correction to clarify screw threads for the examiner's consideration. Upon the close of prosecution and the examiner's approval corrected formal drawings will

be submitted. A new Figure 2 is also added to show the disclosed liner. The specification has been amended to conform to the corrected drawings.

Disclosure Objections

The objection to the disclosure is noted. Applicants have amended the Specification to include standard headings. Withdrawal of the objection is believed to be in order.

Claim Rejections - 35 USC §112, Second Paragraph

Claims 3-5 were rejected under 35 USC §112, second paragraph. Claim 1, which claims 2-5 depend from, was amended to indicate that the strainer has openings to provide antecedent basis for “the openings” in the dependent claims. The claims particularly point out and distinctly claim the subject matter which applicants regard as the invention. Withdrawal of the rejection is believed to be in order.

Claim Rejections - Based on Prior Art

Claim 1 was rejected under 35 USC §102 as being anticipated by Appelhoff, or Andrews, or Friedman et al. or Hermann, Jr. et al. The claim is amended to patentably distinguish and limit over the applied references by defining the invention to require that the housing lid be secureable to the housing for secure closing purposes, and that the housing be of dimensions whereby it may be received within and seal an outlet of a utility which may hold evidence relevant to a crime, namely a bath, shower, wash basin or mortuary table. This structure and function is not shown, suggested or made obvious by the applied references.

Appelhoff fails to disclose an arrangement having a lid securable to the housing. In contrast to the claimed lid securement, the lid (plug 7) of Appelhoff merely rests in a housing (fitting 3) in use. It is not secured to the housing. The provision of a lid securable to the housing is important in applicants' invention to ensure that evidence is not lost, and also to ensure that collected evidence does not become contaminated. It is also noted that the Appelhoff outlet strainer is designed to prevent clogging of drains,

particularly hotels and public building facilities, and is not intended to serve as an evidence collection device.

The disclosure of Andrews is, in many ways, similar to Appelhoff. Although a lid 28 is provided, it is not securable to a housing 22 to close the housing. Rather, as is discussed in column 2, lines 54-60, water pressure is relied upon to hold the lid in its closed condition. After collection, it would not be possible to ensure that evidence is not lost or contaminated. The Andrews drain cover is also not intended to serve as an evidence collection device. Rather, as with the Appelhoff device, it is intended to prevent a drain from being blocked.

Friedman discloses a device with a housing 12 and a lid 15 securable thereto. However, referring to Fig. 2 and column 4, lines 9-16, the lid is formed with a passage 55-56 through which, in use, air is supplied to force a liquid within the housing to pass through the strainer member. If the Friedman device were used as an evidence collection device, the presence of the passage could allow collected evidence to escape or allow the introduction of contaminants, the lid not being securable to the housing to close the housing. Further, the housing is not dimensioned to fit and seal within an outlet as is now required by the amended independent claim. Finally, the Friedman filtration apparatus is designed as a stirring cell, and not for evidence collection and securement.

Hermann does not disclose device with a housing which is intended to fit, nor will it fit into and seal a bath, shower, wash basin or mortuary table outlet. Thus, it would not be suitable for the collection of evidence in the manner of the claimed invention. Referring to column 2, lines 22-24, the Hermann device is intended for collection of urine samples directly from a patient.

It is submitted that this amendment clearly indicates a narrower interpretation than that of the original claim, which interpretation clearly and patentably avoids the applied prior art. Withdrawal of the rejection is requested.

Claim 6 is cancelled in view of the amendment of claim 1. Claims 8 and 12 are cancelled without prejudice to expedite prosecution of the case to finality.

Claims 2-5, 7, and 9-11 are all dependent upon claim 1; each such claim adds at least one limitation to the elements of the base claim and is therefore deemed to be allowable with such base and any intervening claim, at least for this reason. Amendments were made to some of these claims in view of the amendments to the base claims, rejections, and/or cancellation of claims.

A new independent **claim 13** relating to the use of the device with a flexible liner has been introduced, the new claim being based upon original Claim 8. Although the text does not explicitly state that the liner is flexible, the references in the text on page 2, lines 23-25 and page 7, lines 21-23 to the liner comprising a bag form clearly imply liner flexibility. None of the applied references disclose the provision of the claimed collection device with or forming part of a flexible liner. The examiner suggested that a liner is shown in Andrews, but the component identified by the Examiner is not a liner and does not serve as a liner. Similarly, the Examiner suggested that the funnel of Hermann constitutes a liner, but it does not perform a lining function. Rather it is a free standing object. New claim 13 is believed to be patentable.

3. Conclusion.

The claims pending after this amendment are believed to be patentable for the reasons stated above. The amendments are believed to be supported by the specification, claims and drawings as filed. It is believed that this case is now in a condition for allowance. Reconsideration and favorable action are respectfully requested.

Should the Examiner believe that telephone communication would advance the prosecution of this case to finality, he is invited to call at the number below.

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time under 37 CFR 1.136(a), provided a Petition is not submitted separately.

Please charge any fee due not paid by a check or credit card provided herewith, and/or charge any underpayment in any fee, and/or credit any overpayment in fee, to Deposit Account No. 19-2381.

<u>Any fees due are calculated as follows:</u>		<u>Number</u>	<u>Fee</u>
TOTAL claims remaining over that previously paid for:	None		\$0
INDEPENDENT claims remaining over that previously paid for:	None		\$0
	SUM claim fees:		\$0
EXTENSION fees:			\$210
OTHER fees:			\$0
<u>TOTAL AMOUNT (if any)</u>			\$210
<input type="checkbox"/> Paid by enclosed check.			
<input checked="" type="checkbox"/> Paid by enclosed Credit Card Payment Form(s) PTO-2038.			

Respectfully submitted,



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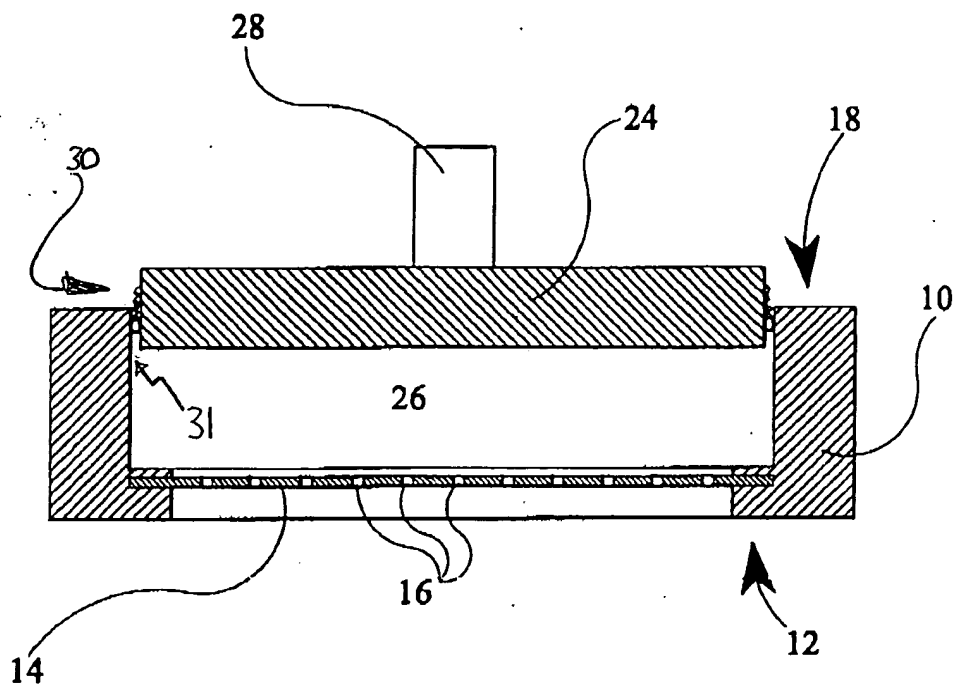
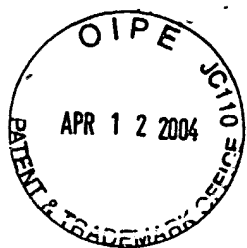


FIG. 1.

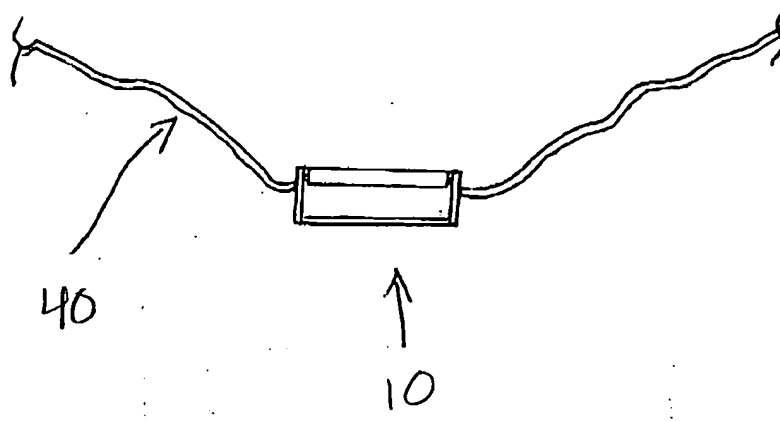
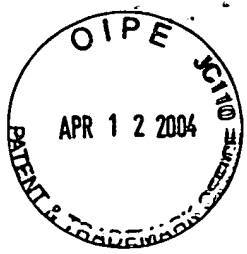


FIG. 2